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NOTIFICATION

No. L. 4-361/58. *Dated, Trivandrum, 1st March 1958.*

The following Bill together with the Statement of Objects and Reasons is published as ordered by the Speaker under Rule 73 of the Rules of Procedure and Conduct of Business in the Assembly.

Legislature Secretariat,
Trivandrum.

V. Krishnamoorthi,
Secretary, Legislative Assembly.

L. A. Bill No. 8 of 1958.

THE PROFESSION TAX (VALIDATION AND REASSESSMENT) BILL, 1958

A

BILL

to provide for the validation of the levy and collection of profession tax and for the reassessment of profession tax in certain cases.

Preamble.—Whereas it is expedient to provide for the validation of the levy and collection of profession tax and for the reassessment of profession tax in certain cases;

Be it enacted in the Ninth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Profession Tax (Validation and Reassessment) Act, 1958.

(2) It shall come into force at once.

2. *Validation of the levy or collection of profession tax under the Travancore District Municipalities Act, 1116.*— Notwithstanding any judgement, decree or order of any court, the amendments to the Taxation and Finance Rules contained in Schedule II to the Travancore District Municipalities Act, 1116 (XXIII of 1116), made by Notification No. LS. 11-13975/55/DD; dated 15th February, 1956, of the Government of the former State of Travancore-Cochin, shall be deemed to have come into force with effect from the 1st day of April, 1950, and the validity of the levy or collection of profession tax made under the said Act and Rules shall not be called in question on the ground that the amendments made by the notification aforesaid cannot have any retrospective operation, and any profession tax so levied but not collected may be collected as if the said amendment had been validly made with effect from the 1st day of April, 1950.

3. *Reassessment of profession tax in certain cases*—Notwithstanding anything contained in the Travancore District Municipalities Act, 1116, in cases where the Executive Authority has, under sub-rule (3) of rule 19 of the Taxation and Finance Rules contained in Schedule II to the said Act, assigned to a company or person the class in the scale appropriate to the half-yearly income of such company or person as estimated by him, without giving an opportunity to such company or person to show cause against it and such company or person was assessed accordingly, it shall be open to that Executive Authority to reopen the assessment and make an assessment *de novo* under the said Act after giving such company or person an opportunity to show cause why that company or person should not be assigned to the class in the scale appropriate to the half-yearly income of that company or person as estimated by him.

Explanation:—In this section, the expression "Executive Authority" shall have the same meaning assigned to it in the Travancore District Municipalities Act, 1116.

STATEMENT OF OBJECTS AND REASONS.

By notification No. LS. 11-13975/55/DD. dated the 15th February, 1956, the proviso to rule 18 (2) of the Taxation and Finance Rules in Schedule II to the Travancore District Municipalities Act, 1116, was amended with retrospective effect from the 1st day of April, 1950. In the judgement pronounced in O. P. Nos. 196 to 202 of 1955, the High Court of Travancore-Cochin held that the retrospective operation of the

amendments as attempted by the notification had failed to effectuate and that the rule applicable as regards the assessments for 1952-1953 with which the O. Ps. were concerned was sub-rule (2) of rule 18 unaffected by the proviso. This decision of the High Court will apply to all assessments made for the period from 1-4-1950 to 15-2-1956, the period for which the notification was given retrospective operation. The effect of the judgement will be that the Municipalities in the Travancore area of the State will have to lose large amounts by making refunds of what they collected by way of profession tax. It is therefore considered necessary to validate the levy and collection of profession tax made by the various Municipalities under the Travancore District Municipalities Act, 1116, for the period from 1-4-1950 to 15-2-1956.

2. In the judgement referred to above the High Court has also held that the best judgement assessments of profession tax made by the executive authority under rule 19 (3) of the Taxation and Finance Rules in Schedule II to the Travancore District Municipalities Act, 1116, without giving previous notice to the assessees were also void. It is considered necessary to enable the executive authority to make a *de novo* assessment of profession tax under rule 19 (3) of the said rules after giving previous notice to the assessees.

3. The Bill is intended to achieve the above objects.

T. V. THOMAS

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